

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Lodi Gas Storage, L.L.C. for a
Certificate of Public Convenience and Necessity
for Construction and Operation of Gas Storage
Facilities.

Application 98-11-012
(Filed November 5, 1998)

**ADMINISTRATIVE LAW JUDGE'S RULING
REQUIRING WIDER SERVICE OF A NOTICE OF AVAILABILITY
OF THE JULY 10, 2003 PETITION FOR MODIFICATION**

A. The Petition

On July 10, 2003, Lodi Gas Storage, L.L.C. (LGS) filed a Petition for Modification of Decision (D.) 00-05-048, which decision approved, with conditions, a certificate of public convenience and necessity (CPCN) for LGS to develop, construct, and operate an underground natural gas storage facility and ancillary pipeline and to provide firm and interruptible storage services at market-based rates. The Commission issued this decision after holding evidentiary hearings and certifying an Environmental Impact Report (EIR).

In its July 10 petition, LGS seeks to eliminate the condition of its CPCN that it be required to provide a surety or performance bond of \$20 million which the Commission imposed to cover LGS's costs of meeting its obligation under this CPCN. The Commission stated that these "costs include, but are not limited to, reburial of the pipeline in the event of subsidence of the soil covering the pipeline, costs of restoring the area in the event of abandonment or bankruptcy, etc." Accordingly, the Commission required the surety or performance bond to

remain in effect until one year following the termination of the project operations. (D.00-05-046, Ordering Paragraph 5, 2000 Cal. PUC LEXIS 394 *121-122.)

The grounds for LGS' petition are summarized as follows:

- Given the completed construction¹ of the Lodi facility and its operating experience to date, there is no public purpose served by the \$20 million surety bond requirement;
- Based on discussions with local community members, there is either support for or no opposition to LGS' request to eliminate the \$20 million surety bond requirement;
- The \$20 million surety bond requirement is unduly discriminatory and imposes an economic hardship undermining the Commission's policy of fostering the development of competitive natural gas storage services; and
- Lodi Gas Storage currently is strong financially.

B. Service of the Petition

LGS served its petition on the service list of the Application (A.) 98-11-012, in which D.00-05-046 issued. However, many people participated in the EIR process and public participation hearings which led to the issuance of D.00-05 046 who were not on the official service list. Because LGS states that one of the changed circumstances supporting this petition is that the local community now either supports or does not oppose LGS' request, I find it in the

¹ On July 15, 2003, Commission staff received a letter from LGS requesting a project variance. A copy of this letter is attached to this ruling as Attachment B. This letter may raise the question as to whether construction is in fact complete on the project. The Commission plans to address this letter through a formal Commission order.

public interest that there be a broader distribution of this petition. However, I am mindful of the costs of serving a lengthy document on a large service list. Therefore, I direct LGS to serve a notice of availability of its petition on all owners of land under, over, or on which Lodi Gas Storage's project is located, and on all commenters on the EIR for this project, as set forth in Table 4-1 of the Final EIR dated February 2000. As soon as practicable, LGS shall file and serve a notice of availability in the form set out in Attachment A. (LGS should fill in the blanks of this draft.) LGS shall serve a copy of the Petition for Modification on all persons who request a copy no later than one business day after receipt of the request.

C. Extended Date for Responding to Petition for Modification

Because of the additional time these notice and service requirements will consume, responses to the Petition for Modification are due no later than 40 days after LGS mails its notice of availability. For this reason, LGS shall file and serve its notice of availability on the service list, as well as on the persons set forth above.

IT IS RULED that:

1. As soon as practicable, Lodi Gas Storage, L.L.C. (LGS) shall file and serve a notice of availability of its Petition for Modification as further set forth in this ruling.
2. Responses to LGS' July 10, 2003 Petition for Modification shall be filed and served no later than 40 days after service of the notice of availability.

Dated July 22, 2003, at San Francisco, California.

/s/ JANET A. ECONOME

Janet A. Econome
Administrative Law Judge

**ATTACHMENT A
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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Lodi Gas Storage, L.L.C. for a Certificate of
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Operation of Gas Storage Facilities

Application 98-11-012
(Filed November 5, 1998)

**NOTICE OF AVAILABILITY OF LODI GAS STORAGE, L.L.C.'S
JULY 10, 2003 PETITION FOR MODIFICATION OF DECISION 00-05-048**

As a landowner under, over, or on which Lodi Gas Storage's project is located, or as a commenter on the Environmental Impact Report for this project, you are receiving the following notice of availability of Lodi Gas Storage's Petition for Modification filed on July 10, 2003 at the California Public Utilities Commission. If you wish to receive a copy of this Petition, or to respond to it, there are instructions for how to do so below.

The Petition for Modification

In May 2000, the California Public Utilities Commission, in Decision (D.) 00-05-048, conditionally approved a certificate of public convenience and necessity (CPCN) for Lodi Gas Storage to develop, construct, and operate an underground natural gas storage facility and ancillary pipeline and to provide firm and interruptible storage services at market-based rates.

Lodi Gas Storage seeks to eliminate the requirement imposed by the Commission that that it be required to provide a surety or performance bond of \$20 million. The Commission imposed this bond to cover Lodi Gas Storage's costs of meeting its obligation under this CPCN. The Commission stated that these "costs include, but are not limited to, reburial of the pipeline in the event of subsidence of the soil covering the pipeline, costs of restoring the area in the event of abandonment or bankruptcy, etc." Accordingly, the Commission required the surety or performance bond to remain in effect until one year following the termination of the project operations. (D.00-05-046, Ordering Paragraph 5.)

The grounds for LGS' petition are summarized as follows:

**ATTACHMENT A
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- Given the completed construction of the Lodi facility and its operating experience to date, there is no public purpose served by the \$20 million surety bond requirement;
- Based on discussions with local community members, there is either support for or no opposition to Lodi Gas Storage's request to eliminate the \$20 million surety bond requirement;
- The \$20 million surety bond requirement is unduly discriminatory and imposes an economic hardship undermining the Commission's policy of fostering the development of competitive natural gas storage services; and
- Lodi Gas Storage currently is strong financially.

How to Receive a Copy of the Petition for Modification

If you wish to receive a copy of Lodi Gas Storage's petition and related documents, please contact (name of contact) at (address) (phone number) (fax number) (email address). Lodi Gas Storage will mail you this information within one business day after receiving your request.

How to Respond to this Petition for Modification

Responses to this Petition for Modification are due to be filed and served no later than __ (Insert exact date here; 40 days after mailing the notice of availability) __. Article 2, beginning with Rule 2 of the Commission's Rules of Practice and Procedure, sets forth the procedure for filing and serving a document at the California Public Utilities Commission. These rules are available on the Commission's web site, www.cpuc.ca.gov. (Click on Laws/Rules/Procedures and then on the Rules of Practice and Procedure.) Additional assistance is also available from the Commission's Public Advisor at (866) 849-8390 or public.advisor@cpuc.ca.gov.

(Dated.)

Signed/ legal representative of LGS
before the CPUC

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Requiring Wider Service of A Notice of Availability of the July 10, 2003 Petition for Modification on all parties of record in this proceeding or their attorneys of record, by mail or, if so requested, by electronic means.

Dated July 22, 2003, at San Francisco, California.

/s/ HELEN FRIEDMAN
Helen Friedman

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

A.98-11-012 ALJ/JJJ/hf1

(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.